IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
(CENTRAL DIVISION)

LILA WILLIAMS, an Individual, Plaintiff, v. ENCLOSED, L.L.C. and ANTONIA TOWNSEND, Defendants.	Case No. ______________________ COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF **EXPEDITED RELIEF REQUESTED**

INTRODUCTION

This case involves the intentional infringement of a registered trademark. The trademark owner, Ms. Lila Williams, owns a registered valid trademark, "panty of the month." Ms. Williams was alerted to the fact that Defendants were infringing her mark, when "customers" called and inquired about their "panty of the month" orders. When Ms. Williams (or her employees) could not find their respective order information, they investigated and learned that the customers actually purchased Defendants' product(s) and had been actually confused by the infringing use of the "panty of the month" mark. Ms. Williams contacted Defendants and provided them notice and an opportunity to cease and desist their infringing use. Defendants have refused.

THE PARTIES AND JURISDICTION

1. At all times relevant to this Complaint, the Plaintiff Lila Williams is an individual resident and citizen of the State of Iowa, she conducts business as "Panty of the Month,"® a lingerie subscription service with its principal place of business in Fairfield, Iowa.

2. Defendant Enclosed L.L.C. is a California limited liability company with its principal place of business in San Francisco, California.

3. Defendant Antonia Townsend is an individual, and a resident of the State of California, and is the sole manager and member of Enclosed L.L.C. which has used "panty of the month" without permission, with its principle place of business in San Francisco, California.

4. Jurisdiction is proper in the United States Southern District of Iowa, pursuant to 28 U.S.C. §§ 1331 and 1338 in that this cause of action arises, in part, under the Lanham Act, 15 U.S.C. § 1051 et. seq.

5. Venue is appropriate in this district because Defendants conduct business in the State of Iowa and in this district via the internet site "theenclosed.com" and through other social media platforms like facebook.com.

BACKGROUND FACTS

6. Ms. Lila A. Williams, are the originators of the "Panty of the Month"® continuity program, which provides panties and similar wearing apparel as a gift on a monthly basis to subscribers.

7. Ms. Williams has used the trade name "Panty of the Month"® continuously since October 1985. "Panty of the Month" was most recently registered in United States Patent & Trademark office on **September 25, 2012** under Registration **4,212,297**. The registration is valid and subsisting and the challenge period has ended.

8. Ms. Williams has enjoyed business success and has developed a very fine reputation for products and services. She has created an original presentation as well as advertising and promotion. The business and the subscription service have regularly been featured in major magazines and newspapers throughout the United States and internationally

and on third party platforms and outlets like "panties.com." Literally, more than one million dollars have been spent on advertising in major publications and extensively on the Internet. As a result, Plaintiff has created an extremely valuable business and a mark which is well-known and highly regarded.

9. As a vital part of the operation of the subscription service, Plaintiff developed an inherently distinctive trade dress for the presentation and sale of its intimate products both in written material and advertising and on other platforms on the internet. This includes the layout and presentation of the merchandise, the monthly nature of the subscription business, and its distinctive subscription identification "Panty of the Month"® and "Lingerie of the Month."

10. This use has resulted in a unique, distinctive trade dress that consumers identify with Plaintiff.

11. The mark has acquired secondary meaning among the relevant trade and public as a symbol identifying Plaintiff and the source of Plaintiff's goods and services.

12. Defendants have constructive knowledge of this fact.

13. Defendants have actual knowledge of Plaintiff's rights since July 2016 when they were notified in writing by Plaintiff's counsel regarding the mark, as well as its registration and were asked to cease and desist from using the mark.

14. Defendants have used the mark in their internet site "theenclosed.com" and on other social media platforms, like facebook.com, in conjunction with identical types of products.

15. Defendants have placed "panty of the month" or "panty of_the_month" in the meta tags of their website "theenclosed.com." Meta tags are snippets of text which describe the page's content but do not visually appear on the page when viewed by a web browser, but are found instead in the page's computer code. Meta tags are primarily content descriptors designed

to signal search engines like "google.com" or "bing.com," to present the site at the top of any search where the tags and the search terms are similar.

16. Defendants have used the mark in advertisements on other platforms, like facebook.com, where they know or should know that facebook.com subscribers will search for the same or similar terms.

17. Defendants have actual knowledge of these facts because on October 18, 2016, the undersigned wrote to them and informed them regarding their use of the mark in all settings including the meta tags and other meta data.

18. Notwithstanding the foregoing, the Defendants have continued to use the mark.

CAUSES OF ACTION

I. Violation of the Lanham Act 15 U.S.C. § 1125(a)

19. Defendants' actions constitute false and misleading designations of origin, false and misleading descriptions of a unique trade dress, and false and misleading representations which have caused actual confusion, are likely to cause confusion, mistake or deception and to misrepresent the nature, characteristics and qualities of defendant's services and goods in violation of 15 U.S.C. § 1125(a).

20. As a result of the Defendants' actions, Plaintiff has suffered damages.

21. Plaintiff believes that Defendants, by virtue of their acts, have derived profit and have been unjustly enriched at the expense of Plaintiff in an unknown amount.

22. Unless the acts of trademark infringement are restrained and enjoined, Plaintiff will be seriously and irreparably damaged.

WHEREFORE, Plaintiff requests the following relief:

A. The issue of a preliminary and final injunction enjoining Defendants, their agents and employees and all those controlled by or acting on their behalf from infringing in any manner on the trademark, using a trade dress that is in any way similar to Plaintiffs in any form, and misrepresenting the source of origin of its product;

B. Awarding Plaintiff's damages for injury to her business, reputation, and good will;

C. Awarding Plaintiff treble damages as provided by 15 U.S.C. § 1117;

D. Granting Plaintiff a reasonable attorney fee;

E. Awarding Plaintiff the cost of this action; and

F. Any such further relief the Court may deem just and equitable.

Respectfully submitted,

WHITFIELD & EDDY, P.L.C.
699 Walnut Street, Suite 2000
Des Moines, IA 50309
Telephone: (515) 288-6041
Fax: (515) 246-1474
Email: Helton@whitfieldlaw.com
Craven@whitfieldlaw.com

By: */s/ J. Campbell Helton*
J. Campbell Helton

By: */s/ S. Luke Craven*
S. Luke Craven

ATTORNEYS FOR LILA WILLIAMS

Original Filed: